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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/674,834
Filing Date: September 30, 2003
Appellant(s): BITSCH ET AL.

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Mai-Tram D. Lauer (Reg. No. 43,589)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 07/02/2008 appealing from the Office action

mailed 12/10/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,678,866	SUGIMOTO et al.	1-2004
Pub. No.: US	VanDenAvond et al.	1-2003

2003/0004946 A1

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.   Claims 1, 4, 9-10 and 41 are rejected under 35 U.S.C. 102(e) as being

anticipated by US Patent No.: 6,678,868 B1 issued to Sugimoto et al. (hereinafter

SUGIMOTO).

        With respect to claim 1, SUGIMOTO teaches a computer-implemented method of

creating a new label in a computer-implemented business integration system, wherein

the new label is a computer- implemented user interface element configured to identify

a control within a user interface associated with the business integration system (a new

label is generated via a system as shown in fig. 1 and display label on the display

screen), the method comprising:

receiving data at an interface indicating a desired text for the new label (fig. 2, user interface for receiving input text for new label via keyboard: col. 9, lines 30-45);

searching a label database for indications of existing labels that include text matching the desired text, wherein existing labels represented in the label database are computer-implemented user interface elements (searching label from a label information database: col. 17, lines 25-30; the matched label is display, otherwise that label is disable: col. 16, lines 22-30); and

returning to a user, based at least in part on the results of the search of the label database, a list of existing labels that include text matching the desired text (when matching the label is displayed to the user via display screen: col. 16, lines 22-30).

With respect to claim 4, SUGIMOTO teaches creating a new object in the label database for the new label (when new label is acquired, the user starts the browser, click on the icon and new label information is created and to be for selection in the window: col. 22, lines 28-45).

With respect to claim 9, SUGIMOTO teaches storing the new label in the label database (storing label in a label information database: col. 6, lines 15-25 and col. 8, lines 52-60).

With respect to claim 10, SUGIMOTO teaches receiving data at the interface indicating how the new label is to be used (fig. 2, user interface for receiving input text for new label via keyboard: col. 9, lines 30-45 and the label information memory area wherein is stored label information for providing the area for displaying the notification or

how to use the label (fig. 3 and fig. 6. also, see col. 2, lines 35-67, and col. 16, lines 30-40).

With respect to claim 41, SUGIMOTO teaches a computer-implemented method of creating a new label in a computer-implemented business integration system, wherein the new label is a computer-implemented user interface element configured to identify a control within a user interface associated with the business integration system (a new label is generated via a system as shown in fig. 1 and display label on the display screen), the method comprising:

receiving data at an interface indicating how the new label is to be used (fig. 2, user interface for receiving input text for new label via keyboard: col. 9, lines 30-45);

searching a label database for indications of existing labels, wherein searching comprises searching based at least in part on the data indicating how the new label is to be used, and wherein the existing labels represented in the label database are computer-implemented user interface elements configured to identify a control within the business solution software system (fig. 1, searching label from a label information database: col. 17, lines 25-30; the matched label is display, otherwise that label is disable: col. 16, lines 22-30); and

returning to a user, based at least in part on the results of the search of the label database, a list of existing labels (when matching the label is displayed to the user via display screen: col. 16, lines 22-30).

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

4.   Claims 5-8 and 11-19 are rejected under 35 U.S.C. 103(a) as being unpatentable

over US Patent No.: 6,678,866 B1 issued to Sugimoto et al. (hereinafter SUGIMOTO) in

view of Pub. No.: US 2003/0004946 A1 of VanDenAvond et al. (VANDENAVOND).

With respect to claim 5, SUGIMOTO teaches a method of creating a new label in

a business integration system as discussed in claim 1.

SUGIMOTO teaches receiving text for searching, matching against label

information database, creating and returning by displaying the label text to the user.

SUGIMOTO does not explicitly teach assigning a GUID for the new label; and receiving

a category code for the new label and storing versions of the text for the label in a

record in a label text database.

However, VANDENAVOND teaches a unique template ID is automatically

assigned by system and UPC code for each label and categories (sections 0052, 0059-

0060, and 0072).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time the invention was made to combine the teachings of SUGIMOTO with the

teachings of VANDENAVOND. One having ordinary skill in the art would have found it

motivated to utilize the use of creating and maintaining label record and setting the

publication status of the label record as disclosed (VANDENAVOND's sections 0002

and 0005), into the system of SUGIMOTO for the purpose of ensuring compliance with

label regulations across all of the products, thereby, being a significant challenge for an

organization and eliminating redundancies and inefficiencies processes

(VANDENAVOND's sections 0003 and 0009).

With respect to claims 6-8, SUGIMOTO teaches a method of creating a new

label in a business integration system as discussed in claim 1.

SUGIMOTO teaches receiving text for searching, matching against label

information database, creating and returning by displaying the label text to the user.

SUGIMOTO does not explicitly teach receiving data at the interface indicating a

category code for the new label, receiving data at the interface indicating a description

for the new label, wherein receiving data at the interface indicating a description

includes receiving a namespace and receiving data at the interface indicating an original language for the new label.

However, VANDENAVOND teaches categories, description for label, language written the new label (sections 0026, 0044, 0050, 0056 and 0060, see figs. 3 and 5; selecting one or more language for label and enter translation text: section 0069 and fig. 11).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of SUGIMOTO with the teachings of VANDENAVOND. One having ordinary skill in the art would have found it motivated to utilize the use of creating and maintaining label record and setting the publication status of the label record as disclosed (VANDENAVOND's sections 0002 and 0005), into the system of SUGIMOTO for the purpose of ensuring compliance with label regulations across all of the products, thereby, being a significant challenge for an organization and eliminating redundancies and inefficiencies processes (VANDENAVOND's sections 0003 and 0009).

With respect to claim 11 and 13, SUGIMOTO teaches a method of creating a new label in a business integration system as discussed in claim 1.

SUGIMOTO teaches receiving text for searching, matching against label information database, creating and returning by displaying the label text to the user. SUGIMOTO does not explicitly teach comparing the indicated use of the selected records with the indicated use of the new label, and ordering the selected records based

on the degree of match relative to the desired text and indicated use of the new label,
and having a closest match to the desired text are displayed first.

However, VANDENAVOND teaches placing order or request to a label (sections
0028 and 0063); comparing the selected label record (section 0074).

Therefore, it would have been obvious to a person of ordinary skill in the art at
the time the invention was made to combine the teachings of SUGIMOTO with the
teachings of VANDENAVOND. One having ordinary skill in the art would have found it
motivated to utilize the use of creating and maintaining label record and setting the
publication status of the label record as disclosed (VANDENAVOND's sections 0002
and 0005), into the system of SUGIMOTO for the purpose of ensuring compliance with
label regulations across all of the products, thereby, being a significant challenge for an
organization and eliminating redundancies and inefficiencies processes
(VANDENAVOND's sections 0003 and 0009).

With respect to claim 12, SUGIMOTO teaches wherein returning to the user the
list of existing labels comprises displaying the list of existing labels (the label is
displayed to the user via display screen: col. 16, lines 22-30).

With respect to claims 14-15, SUGIMOTO teaches a method of creating a new
label in a business integration system as discussed in claim 1.

SUGIMOTO teaches creating a new label in business environment, searching
the label with text or description against a database consisting of a plurality of labels
stored in the memory of the integrating label system. SUGIMOTO does not clearly teach
receiving an indication that one record in the list of matches is a desired entry; selecting

that entry as the new label text, receiving a selection of a label from the list of existing labels; and comparing the indicated use of the selected label against the indicated use of the new label.

However, VANDENAVOND teaches comparing the selected label record (section 0074) and a unique template ID is automatically assigned by system and comparing categories (sections 0052, 0056-0059 and figs. 4 and 5; also sections 0026 and 0044)

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of SUGIMOTO with the teachings of VANDENAVOND. One having ordinary skill in the art would have found it motivated to utilize the use of creating and maintaining label record and setting the publication status of the label record as disclosed (VANDENAVOND's sections 0002 and 0005), into the system of SUGIMOTO for the purpose of ensuring compliance with label regulations across all of the products, thereby, being a significant challenge for an organization and eliminating redundancies and inefficiencies processes (VANDENAVOND's sections 0003 and 0009).

With respect to claims 16-17, SUGIMOTO teaches a method of creating a new label in a business integration system as discussed in claim 1.

SUGIMOTO teaches creating a new label in business environment, searching the label with text or description against a database consisting of a plurality of labels stored in the memory of the integrating label system. SUGIMOTO does not clearly teach determining that the indicated use of the selected label is not the same as the indicated use of the new label; duplicating the selected label to the new label in the label

database; and duplicating any translations in a label text database to the record in the label text database for the new label any translations in the label text database for the selected label.

However, VANDENAVOND teaches maintaining duplicate label records and controlling by record ID (sections 0043) and translating available labels (section 0065).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of SUGIMOTO with the teachings of VANDENAVOND. One having ordinary skill in the art would have found it motivated to utilize the use of creating and maintaining label record and setting the publication status of the label record as disclosed (VANDENAVOND's sections 0002 and 0005), into the system of SUGIMOTO for the purpose of ensuring compliance with label regulations across all of the products, thereby, being a significant challenge for an organization and eliminating redundancies and inefficiencies processes (VANDENAVOND's sections 0003 and 0009).

With respect to claims 18-19, SUGIMOTO teaches a method of creating a new label in a business integration system as discussed in claim 1.

SUGIMOTO teaches creating a new label in business environment, searching the label with text or description against a database consisting of a plurality of labels stored in the memory of the integrating label system. SUGIMOTO does not clearly teach associating an ID of the selected label with the new label; and determining that the indicated use of the selected label is the same as the indicated use of the new label; and using the selected label for the new label.

However, VANDENAVOND teaches selecting and creating new label based on the ID label (section 0059); determining the category of the label (section 0044) and generating new translations for text of label (sections 0043 and 0069), entering the ID for the desired selected label (0072) and translating available labels (section 0065).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine the teachings of SUGIMOTO with the teachings of VANDENAVOND. One having ordinary skill in the art would have found it motivated to utilize the use of creating and maintaining label record and setting the publication status of the label record as disclosed (VANDENAVOND's sections 0002 and 0005), into the system of SUGIMOTO for the purpose of ensuring compliance with label regulations across all of the products, thereby, being a significant challenge for an organization and eliminating redundancies and inefficiencies processes (VANDENAVOND's sections 0003 and 0009).

(10) Response to Argument

Argument:

Appellant argues that, "claim 1 as previously presented is not anticipated by

Sugimoto. The labels can be used on modules or any objects including dialog boxes,

text strings and controls. Sugimoto discloses neither a label as "an element configured

to identify a control" nor label comprising text as claimed. There is no teaching in

Sugimoto that such identifier information is text and the text matching limitation of claim

1 is not disclosed by Sugimoto." (page 12 the 3rd paragraph, and page 13 the the 1st

and 2nd paragraphs, in the Appeal Brief).

Response:

In response to appellant's argument that the references fail to show certain

features of applicant's invention, it is noted that the features upon which applicant relies

(i.e., used on modules, or any object, dialog boxes, text string) are not recited in the

rejected claim(s). Although the claims are interpreted in light of the specification,

limitations from the specification are not read into the claims. See *In re Van Geuns*, 988

F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Examiner respectfully disagrees as SUGIMOTO teaches receiving the entered

input from a keyboard, which is inputted a string of alphanumeric characters. This a text

string which is entered via an interface of keyboard and this text string or a desired text

is used to search for matching and from which creates a new label (fig. 2, col. 9, 30-45;

also, see fig. 6). This string or entered text is used to search label from a label

information database (fig. 1, item 102) stored in the memory. The label information

database stores label information so that it can be renewed (col. 8, lines 52-55). The

identifier of the desired text string stored in this registry is compared against the

identifier in the label information and when it has a match, the new label information is

introduced and a determination is made as to whether or not that label to be used (col.

14, lines 4-12, see fig, col. 15, lines 10-20, col. 16, lines 1-35). And returning or display

to the user a list of label on the display screen (col. 16, lines 1-30; col. 17, lines 22-67).

The label information is used as an object to control the display of advertisements and

other notification information according to time and advertisement text file as control

files (col. 25, lines 65-67 and col. 26, lines 1-3; also, col. 11, lines 45-65).

Argument:

Appellant argues that, "There is not disclosure that Sugimoto's method receives

any indication of how a new label is to be used." (page 13, 3rd and 4th paragraphs, page

14, 1st and 2nd paragraphs, in the Appeal Brief).

Response:

In response to Appellant's arguments, Examiner respectfully disagrees as

SUGIMOTO teaches how the label to be used: the label information memory area

wherein is stored label information for providing the area for displaying the notification or

how to use the label (fig. 3 and fig. 6. also, see col. 2, lines 35-67, and col. 16, lines 30-

40).

Argument:

Appellant argues that, "Sugimoto and VanDenAvond do not render obvious by

the combination." (page 15 thru page 17, in the first 4 lines, in the Appeal Brief).

Response:

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, SUGIMOTO and VANDENAVOND are from the same field of endeavor and both are directed to create or generate label via an interface and each label has its identifier or ID or identification, an ID can provides a unique identification. VANDENAVOND teaches a unique template ID is automatically assigned by system and UPC code for each label and categories (page 5, 0052, 0056 and 0059). SUGIMOTO teaches label identifier for using to match the existing label information stored in the label information database (fig. 1, item 102). One having ordinary skill in the art would have found it motivated to modify or combine the teachings of SUGIMOTO and VANDENAVOND because that would provide SUGIMOTO's system for the purpose of ensuring compliance with label regulations across all of the products, thereby, being a significant challenge for an organization and eliminating redundancies and inefficiencies processes (VANDENAVOND's sections 0003 and 0009). Moreover, the examiner kindly submits that the applicants misread the applicable references used in the last office action. However, when read and analyzed in light the specification, the invention as claimed does not support applicant's

assertions. Actually, applicants are interpreting the claims very narrow without considering the broad teaching of the references used in the rejections. Additionally, it is important to note that the examiner interpretation of the claims, wherein, the examiner explicitly stated passages in the cited references which were not even addressed. The aforementioned assertion wherein all the limitations are not taught or suggested by the prior of record, was unsupported by objective factual evidence and was not found to be substantial evidentiary value. The examiner has provided in the last office action, a convincing one of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the cited references. Applicants are reminded that 37 CFR 1.111(b) states, a general allegation that the claims define a patentable invention without specifically printing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Therefore, the applicants have failed to provided prima facie evidence how the language of the claims patentably distinguished them from the cited references. Hence, the applicants' assertions are just mere allegation with no supported fact. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a

reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA

1971).

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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Patent Examiner (GAU: 2162)

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